

# NICKI A. BURKE

Surrogate of Salem County

Surrogate's Court of Salem County

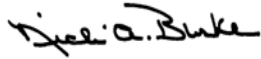
## **NEWSLETTER**

**2016**

Welcome to this edition of the Salem County Surrogate's Court Newsletter. This newsletter is printed to provide you with important information, current issues, and changes to the Surrogate's Court.

Enjoy! Please be sure to contact my office with any questions.

Sincerely,



Nicki A. Burke  
Surrogate of Salem County

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### **EVENING HOURS!**

In order to serve you better, I am pleased to offer extended hours for my office. We are open on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesday of every month until 6:00 p.m. at the Salem office location. Our normal hours are Monday – Friday, 8:30 a.m. – 4:30 p.m. This schedule, along with other valuable information about how the Surrogate's Court can assist you, are on my website. [www.surrogate.salemcountynj.gov](http://www.surrogate.salemcountynj.gov).

### **DIGITAL ASSETS**

You have your Last Will & Testament drawn up, your executor selected, your health directive signed and your funeral arrangements specified. You may think your work is finished but now that more things are handled online, have you considered your digital assets? Please go to my website, [www.surrogate.salemcountynj.gov](http://www.surrogate.salemcountynj.gov), for additional information about this most recent probate issue.

## **SENIOR SECTION: FREE LAST WILL & TESTAMENT, LIVING WILL OR DURABLE POWER OF ATTORNEY**

Seniors may be eligible to have the following very important documents prepared: Last Will & Testament, Living Will & Durable Power of Attorney.

To see if you are eligible please contact:

South Jersey Legal Services – Vineland Office  
1-800-496-4570

This is the centralized intake unit. The hours are Monday thru Friday 9:00 a.m. to 1:00 p.m. If you are not able to get through at the above number you may try (856) 691-0494. The hours are Monday thru Friday 9:00 a.m. to 5:00 p.m.

## **THREE DOCUMENTS EVERY ADULT, AGE 18 AND OLDER, SHOULD HAVE PREPARED.**

1. Durable Power of Attorney
2. Last Will & Testament
3. Living Will (a/k/a Medical Directive)

**Durable Power of Attorney:** A power of attorney (POA) is a written document whereby you authorize someone to act on your behalf. It is a written authorization to represent or act on another's behalf in private affairs, business, or some other legal matter. For example, a mother may name her daughter to act for her. However, if your power of attorney is not "durable, you may find that the power of attorney is useless when it is needed most. The "durable" power of attorney is exactly identical to the regular power of attorney except for one crucial difference. The difference has to do with whether the powers remain effective if you become disabled, whereas the "durable" power of attorney continues to be effective despite your subsequent disability.

**Last Will & Testament:** A will is a legal declaration by which a person, the testator, names one or more person to manage his/her estate and provides for the transfer of his/her property at death.

**Living Will, also known as a Medical Directive:** A living will is a legal document that a person uses to make known his/her wishes regarding life prolonging medical treatments. It can

be referred to as an advance directive, health care directive, or a physician's directive. A living will should not be confused with a living trust, which is a mechanism for holding and distributing a person's assets.

**PLEASE NOTE THE DIFFERENCE:** The powers under the Power of Attorney END at death. The Powers under the Last Will & Testament START at death once the will has been probated with the Surrogate's Court.

The above documents are extremely important; it is always advisable to seek legal counsel for their preparation.

## **SCHEDULE THE SURROGATE TO SPEAK TO YOUR GROUP OR CLUB**

The Surrogate has a tremendous amount of information that all adults, starting at age 18, should be aware of. The information is invaluable when planning and creating your paperwork.

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Website: [www.surrogate.salemcountynj.gov](http://www.surrogate.salemcountynj.gov)

Like us on  Facebook: Salem County Surrogate

## **IMPORTANT TIPS AND REMINDERS**

1. NEVER write on, mark-up or make erasures to your Last Will and Testament – you may be invalidating your will.
2. All adults, age 18 and older, should have at least these three documents:
  - a. Power of Attorney
  - b. Last Will and Testament
  - c. Living Will (also known as a Medical Directive)
3. New Jersey does not have a law or requirement that you must have a lawyer prepare your Last Will and Testament. However, the risks are great. One small overlooked detail can invalidate the entire document, nullifying your intentions. There's no substitute for sound legal advice when having these documents prepared.
4. Advise your named executor(s) as to the location of your ORIGINAL Last Will and Testament. (only the original may be probated in the Surrogate's Court)
5. Power of Attorney: IMPORTANT TO REMEMBER: Authority under the Power of Attorney ENDS at death.
6. Last Will and Testament: Authority of the executor STARTS at death upon probate at the Surrogate's Court.

## **DO I REALLY NEED TO MAKE A LAST WILL & TESTAMENT?**

If you do not already have one, making a Last Will and Testament can save your family time and money, as well as giving them peace of mind. Without a will, your family will have to list all

your assets and their value. In addition, they have to be bonded by an insurance company. To top it off, a creditor can ask the courts to appoint a personal representative for the estate after forty days (from date of death) have passed – so having a will relay who you want to represent you.

## **SAFE DEPOSIT BOXES - CAUTIONS**

Surrogate Urges Seniors to Check Bank Deposit Box Policies

Salem County Surrogate Nicki Burke is urging residents, seniors in particular, to make sure they understand their bank's policy should the need arise to remove their Last Will and Testament or other sensitive documents from a safe deposit box.

In New Jersey, the probate process can begin with the presentation of the original Will and a death certificate with a raise seal. Banks from out of state have implemented policies and procedures that disregard New Jersey's Probate practice. Prior to the large scale acquisitions of local banks by larger out-of-state-banks, the practice in New Jersey was to allow surviving family members to remove three things from the safe deposit box prior to the appointment of an executor or administrator.

Those items are funeral or burial arrangements, insurance policies with a named beneficiary, and the decedent's last Will and Testament. Recent bank mergers and acquisitions have made it increasingly difficult for the state representative or family member to get the documents needed to have a Will probated or to determine if there is no Will.

Out-of-state-banks are requiring people to acquire a document that is non-existent in the New Jersey Probate Code," Surrogate Burke said. "They have failed to give proper acknowledgement to what has always been the procedure in New Jersey in these times of hardship."

Before renting a safe deposit box, it is advised to check the policy and be clear on the process to remove items from the box. Make certain that these large banks will allow those documents to be removed without requiring an order from the Surrogate's Court. Smaller local community banks will probably serve the public better in this regard. If a safe deposit box is already rented and the bank has merged with another bank, it is advisable to review the bank's policies for any changes. If the policy makes it difficult to remove items, then the family should find another bank.

## **RESEARCHING YOUR FAMILY TREE? / CREATING A FAMILY CHART?**

There are many online tools to utilize when beginning your genealogical research, or just creating a chart to illustrate your family tree.

[www.familysearch.org](http://www.familysearch.org)

[www.USGenWeb.org](http://www.USGenWeb.org)

[www.RootsWeb.com](http://www.RootsWeb.com)

These sites allow one to seek information by family name; look up information by state archival records; or begin charting family lineage with online tools. Even the Ellis Island records and many immigrant families that entered and registered are available online:

[www.EllisIslandRecords.org](http://www.EllisIslandRecords.org)

## **PREVENTING FRAUD AFTER THE DEATH OF A LOVED ONE**

After a loved one passes, you may contact the credit bureaus to report that the person is deceased, in order to prevent identity fraud.

However, this cannot be done over the telephone. A certified death certificate (one with a raised seal; copies are not acceptable) should be directed to the credit bureaus with a letter requesting the credit report to be flagged as a deceased person.

The notification to the credit bureau allows them to update and make "the file inactive so that it doesn't display to potential creditors".

Additionally, documents such as executor<sup>1</sup> or administrator paperwork<sup>2</sup>, or a power of attorney<sup>3</sup>, can be included when contacting the credit bureaus or enclosing a death certificate.

<sup>1</sup>when a Will is probated after death

<sup>2</sup>no valid Will existed, but administrator appointed

<sup>3</sup>only in effect when the person is alive

## **HOW TO CONTACT THE CREDIT BUREAUS**

**Experian (888) 397-3742**

[www.experian.com](http://www.experian.com)

**Equifax (888) 766-0008**

[www.equifax.com](http://www.equifax.com)

**TransUnion (877) 322-8228**

[www.transunion.com](http://www.transunion.com)

## **WHAT IS A FUNERAL AGENT?**

Please note the appointment of a funeral agent has caused quite a discussion and some controversy among professionals. It is advised that you speak to your attorney at law when preparing your Last Will & Testament to determine if the inclusion of a funeral agent is appropriate for you.

A funeral agent is a person appointed in a Last Will & Testament by a deceased relative, friend or acquaintance to control the funeral. This supersedes the right of all others.

Naming a friend or family member to serve as funeral agent can be helpful in complex family situations, where there may be disagreement or confusion over how the funeral will or should occur.

N.J.S. 3B:10-21.1. Appointment of person to control funeral and disposition.

Prior to probate, a decedent's appointment of a person in a will to control the funeral and disposition of human remains may be carried out in accordance with section 22 of P.L.2003, c. 261 (C.45:27-22). If known to them, a person named executor in a will shall notify such a person of their appointment and advise them of what financial means are available to carry out the funeral and disposition arrangements.

## **UNCLAIMED PROPERTY**

Unclaimed property is any financial asset that has been unclaimed by the rightful owner. There are numerous reasons as to when monies are turned over to the state:

- Bank accounts that have been inactive for three years
- Unclaimed money orders, certificates of deposit, payroll wages, etc.

This property is turned over to the state of the last known address of the owner. You can contact the state of New Jersey Department of Treasury by phone, written letter, or website to determine if there are any funds being held in your name.

If unclaimed property is being held and the owner is deceased then an Executor/Administrator certificate or Affidavit of Heir will be needed from the Surrogate's Court. When the certificate or affidavit has been obtained, it will then be given to the New Jersey Department of Treasury to authorize them to release the funds.

State of New Jersey, Department of the Treasury, Unclaimed Property (609) 292-9200

[www.state.nj.us/treasury/taxation](http://www.state.nj.us/treasury/taxation)

Mailing address:

NJ Unclaimed Property

Department of the Treasury

Property Administration

P.O. Box 214

Trenton, NJ 08695-0214

### **BANK ACCOUNTS:**

It is extremely important to review how bank accounts are held such as joint accounts of non-class "A" beneficiaries, Payable on death accounts (is the payee a non-class "A"), Power of Attorney accounts.

How an account is owned will determine its distribution upon death.

See for further information: <http://www.state.nj.us/treasury/taxation/estatetax.shtml>

### **MOTOR VEHICLE TITLES:**

Another area of concern to be mindful of is how your vehicles are titled. Many times a family enters my office and states "the car is really mine, I am making the payments, but the title is in my uncle's name." Unfortunately, since the title is in the decedent's name, that car becomes a part of the decedent's estate.

Please review carefully.

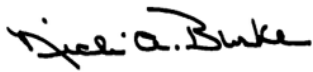
### **CONTACT US: (856) 935-7510 ext. 8323**

E-MAIL: [nicki.burke@salemcountynj.gov](mailto:nicki.burke@salemcountynj.gov) [surrogate@salemcountynj.gov](mailto:surrogate@salemcountynj.gov)

WEBSITE: [www.surrogate.salemcountynj.gov](http://www.surrogate.salemcountynj.gov)

REMINDER: Nicki Burke is available to speak to all organizations, civic groups, churches, families, etc.

PROBATE CAN BE COMPLICATED – I HAVE MANY YEARS OF EXPERIENCE WITH PROBATE AND THE ADMINISTRATION OF PROBATE IN THE SALEM COUNTY SURROGATE'S COURT TO HELP GUIDE YOU THROUGH THE PROCESS. PLEASE FEEL FREE TO CONTACT ME AT ANY TIME. NO QUESTION IS TOO SMALL – I AM HERE TO HELP YOU.



Surrogate of Salem County